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THE LAVVFULNES of obeying the Present Government. And Acting under it,

With some other ADDITIONS to a former EDITION.

By one that Loves all PRESBYTERIAN lovers of Truth and Peace, and is of their Communion.

JOHN 7. 24.

Judge not according to the appeareance, but judge righteous judgement.

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Bene facit senex venerandus
quia hanc rem asserit

The lawfullneſſe of obeying the preſent Government.

And acting under it.

A Declaration hath beene lately publiſhed, wherein the grounds are expreſt of ſetling the preſent Government, with which if any be not ſo far ſatisfied as to thinke that ſettlement lawfull, yet even to ſuch is this Diſcourſe directed, which propoſeth Proofes, that though the change of a Government were beleeved not to be lawfull, yet it may lawfully be obeyed.

THe Apoſtle intreating of purpoſe upon the duty of ſubmiſſion and obedience to Authority, layes down this precept; *Let every ſoule be ſubject to the higher powers, for there is no power but of God; the powers that are, are ordained of God*; and hereupon infers, *Wherefore ye muſt needs* Rom. 13.

be ſubject not only for wrath, but for conſcience ſake. And that he ſpeakes not in this place meerly of power or authority abſtracted from perſons, but of perſons cloathed with that authority, appeares in that he ſaith; *For, rulers are not a terrour to good workes.* So that he ſpeakes of perſons ruling, as well as of the power by which they rule. And againe, *He is the Miniſter of God,* and they are Gods Miniſters; & accordingly he directs *Timothy,* to pray for a bleſſing upon thoſe that are in authority. Now if the Powers, Rulers, and thoſe that were in authority in that time were ordained of God, and were to be obeyed for conſcience ſake, let us conſider how lawfully they came into that power, rule, and authority. This Epiſtle moſt probably, if not certainly, was written in the time of *Claudius Cæſar,* or *Nero,* the former of which baniſhed the Jews out of *Rome,* upon which occaſion *Aquila* and *Priſcilla* came out and met with *Paul* at *Corinth:* and by the ſentence of the latter, *Paul* having made his appeale to *Cæſar* finiſhed his courſe, and paſſed unto a crowne of righteouſneſſe. And now, behold the lawfulneſſe by which theſe two perſons came to be inveſted in their power and authority.

Poteſtatis nomine, intelligo Magiſtratum, qui eſt cum poteſtate & autoritate; maluit tamen Apoſtolus ipſam poteſtatem nominare quàm hominem, &c. Rolloc. in locum.

1 Tim. 2. 2

Acts. 18. 1. 2.

Timore cadis exterritus prorepſit ad ſolarium proximum, i nterq; præten ſa foribus vela ſe abdidit; latentem, diſcurrens ſorte gregarius miles animadverſit

Of *Claudius Cæſar* the Story tells us this; After the death of *Caius Caligula,* the Conſuls and Senate of *Rome* entred into a conſultation, how they might reſtore the Common-wealth to her ancient freedom, which by the *Cæſars* had been taken from them. So that the taking in of an Emperour, and conſequently of *Claudius* for Emperour, was directly againſt the

the wills and resolution of the Consuls and Senate; yet these anciently for many hundred yeares had the chiefe power of Government; But see the way of *Claudius* his coming to the Empire; during the *Inter-regnum*, *Claudius* being frighted with the news of *Caligula's* death, and fearing himselfe might be enquired for upon suspition with-drew, and hid himselfe behind the Hangings, or covering of a doore; where a Souldier seeing his feet, and desirous to know what he was drew him forth, and upon knowledge of him saluted him Emperour, though even then for feare falling downe low before him. This one Souldier brought him forth to his fellow Souldiers, who lifted him up as Emperour; and thus while the Senate was slow in executing their purposes, and differences grew among them, *Claudius*, who was sent for by the Senate to give in his councell concerning the common freedome, undertooke the Empire. Thus in one Souldier at first, and then in more, was the foundation of *Claudius* his Emperiall power, against the will, consultations, and endeavours of Consuls and Senate. And for *Nero* (his Successor) *Britannicus*, who was nearer of kin to *Claudius*, being his Son, was kept in by the cunning of *Neroes* mother, and by the same craft *Nero* being brought forth to the Souldiery, was first saluted Emperour by them. This sentence of the Souldiers was followed with the consent of the Senate, and then it was not scrupled in the Provinces; so that the Souldiery was also the foundation of *Neroes* Empire. Thus we see Rulers

pedibus, è studio scisciandi quisnam esset, agnovit, extractumq; & præ metu ad genua sibi accidentem Imperatorem salutavit. Hinc ad alios commilitones fluctuantes, nec quic quam ad hunc quam frementes perduxit. Ab his lecticæ impositus, & quia servi disfugerant, vicissim succollantibus, in castra delatus est. tristis ac trepidus miserante obvia turba, quasi ad pœnam raperetur insons. Receptus intra vallum inter excubias militum pernoctavit, aliquanto minore spe quàm fiducia. Nam Consule cum Senatu, & cohortibus urbanis forum capitoliumq; occuparunt, asserturi commune libertatem, accitusq; & ipse per Tribunum plebis

put by Souldiers into that power which is ſaid by the Scripture to be ordained of God; and even to theſe Rulers men muſt be ſubject for conſcience.

in curiam ad ſuadenda quæ viderentur. ſe & neceſſitate teneri reſpondit.

Verum poſtero die Senatu ſegniore in exequendis conatibus per tædium ac diſſentionem diverſa cenſentium & multitudine quæ circumſtabat, unum rectorem jam & nominatim expoſcente, armatus proconcione jurare in nomen ſuum paſſus eſt, promiſitq; ſingulis quinadena H. S. primus Cæſarum fidem militis, etiam premio pigneratus. Sueton in Claudio. *Agrippina velut dolore victa, & ſolatia conquirens, tenere amplexu Britannicum, verum paterni oris effigiem appellare, &c. & Antoniam quoq; & Octaviam attinuit, & cunctos aditus cuſtodiis clauſerat, crebroq; vulgabat ire in melius valetudinem principis, quò miles bona in ſpe ageret, tem uſq; proſperum ex monitis Chaldæorum attentaret. Tunc medio die, tertio ante idus Octobr. foribus palatii repente diductis, comitante* Burrho Nero *egreditur ad cohortem, quæ more militiæ excubiis adeſt, ubi monente præfecto, feſtis vocibus exceptus, inditur lecticæ. Dubitaviſſe quoſdam ferunt reſpectantes rogitaneſq; ubi Britannicus eſſet? Mox nullo in diverſum auctore, quæ offerrebantur ſecuti ſunt. Illatuſq; caſtris* Nero, *& congruentia tempori præfatus, promiſſo donativo adj exemplum paternæ largitionis Imperator conſalutatur. Sententiam militum ecuta patrum conſulta, nec dubitatum eſt apud provincias.* Tacit. Annal. Lib. 12.

But paſſing from the Romane ſtate to our owne, ſure we are that in this Nation many perſons have beene ſetled in ſupreame power and authority by meere force without title of inheritance, or juſt conqueſt. And it hath been obſerved by ſome that accurately have looked into our ſtory, that not any three immediately ſucceeding each other, came to the Crowne by true lineall ſucceſſion and order of blood. Neither is there any great difficulty in finding it, untill we come to Queene *Mary*, whoſe title being by an inceſtuous marriage, theſe obſervers ſay that Queene *Elizabeth* ſhould have raigned in her ſtead; However, we are cleerly told by ſtory, that five Kings on a row (of which the Conqueror was the firſt) had no title at all by lineall deſcent and proximity of blood. The firſt came in by force; The

ſecond

ſecond and third had an elder Brother living when they came to the Crowne; The fourth raigned when his Predeceſſor had a Daughter, and Heire living which was *Mawd* the Empreſſe; The fifth being the Son of that Empreſſe, raigned while his Mother was alive, by whom his Title came. But leaving theſe, and *Edward* the third who raigned in his Fathers life time, and the three *Henries*; fourth, fifth, and ſixt, who raigned upon the *Lancaſtrian* (that is a younger Brothers) Title, Let us more particularly conſider *Henry* the ſeventh; This *Henry* came in with an Army, and by meere power was made King in the Army, and by the Army; ſo that in the very field where he got the Victory, the Crowne was ſet upon his head, and there he gave Knight-hood to divers; And upon this foundation of military power, he got himſelfe afterwards to be ſolemnely Crowned at *Weſtminſter*. And ſoone after upon authority thus gotten, he called a Parliament, and in that Parliament was the Crowne entailed upon him and his Heires. Thus both his Crowne and his Parliament were founded upon power; As for any right Title, he could have none; for he came from a Baſtard of *John* of *Gaunt*, which though legitimated by Parliament for common Inheritances, yet expreſſely was excluded from right to the Crowne. And for his wives Title, that came in after his Kingſhip, and his Parliament, which before had ſetled the Crowne upon him and his Heirs. And he was ſo farre from exerciſing authority in her right, that her name is not uſed in any

See Speed in H. 7. n. 1. *&* *Seq.*

Lawes

Lawes as Queene *Maries* was, both before and after her marriage with the Spaniſh King. Now this and the reſt who came in by meere power without Title of inheritance, being in their opinion who are now unſatisfied, to be held unlawfull, yet the maine body of this Nation did obey them, whilſt they ruled, yea doth yield ſubjection to their Lawes to this very day. And the learned in the Lawes doe continually plead, judge, juſtify, and condemne according to theſe Lawes; So that herein the very voyce of the Nation with one conſent ſeemes to ſpeake aloud; That thoſe whoſe Title is held unlawfull, yet being poſſeſt of authority may lawfully be obeyed.

And hereunto Divines and Caſuiſts give their concurrence; among them one that is reſolute both for Monarchy and lineall Succeſſion, thus expreſſeth his judgement, both for ſeeking of right and juſtice from an uſurper (whom he calleth a Tyrant, in regard of an unjuſt Title, not in reſpect of Tyranicall oppreſſion) and for obeying his commands. First, that Subjects may lawfully ſeek juſtice of him; And ſecondly, that if his commands be lawfull and juſt, they muſt be obeyed. And another well eſteemed in the Reformed Churches, is of the ſame judgement.

Dicendum eſt, licitè ſubditos ab eo (quity rannus jure & titulo eſt) jus petere, quia quamvis jus & titulum non habeat, res-

publica tamen tacitè conſenſit in hoc ut civibus ipſi Tyranno. Facto, non jure ſubditis, jus dicat, acſi eſſet competens judex & legitimus ſuperior. Item, ſi mandata tyranni ſint æqua, & juſta, parendum eſt. Azor. Inſt. Mor. Par. 2. Lib. 11. Cap. 5. Non peccat ſubditus tyranni, qui dominium & juriſdictionem alicujus ditionis uſurpavit, petendo ab eo juſtitiæ adminiſtrationem, &c. Siquidem dat aperem ut qui peccat juriſdictionem uſurpando, non peccet etiam juſtitiæ adminiſtrationem prætermittendo; Ex Navarri manual. cap. 17. n. 41.

Si mandata principis, alioqui Tyranni, ſint æqua & juſta, parendum eſt. Alſted. Theol. Caſ. Cap. 17.

Paræus saith, *That it matters not by what meanes or craft* Nimrod, Jeroboam, *got Kingdomes to themselves; For the power is onething which is of God, and the getting and the use of the power is another; And after: The beginning of* Nimrods *power was indeed evill, as to the getting and usurping power, because abusing his strength, force, and wealth, he violently subbued others, and compelled them to obey; but not the power or force wherewith he seemed to be indued by God above others;* And another more plainely. *When a question is made whom we should obey; it must not be lookt at what he is that exerciseth the power, or by what right or wrong he hath invaded the power, or in what manner he doth dispence it, but onely if he have power. For if any man doth excell in power, it is now out of doubt, that he received that power of God; Wherefore without all exception thou must yield thy self up to him, and heartily obey him.*

Civilem & herilem expresso verbo sanxit. Gen. 9. *Qui sanguinem hominis fuderit, ejus sanguis etiam fundetur ab homine. Non utiq; à quovis; prohibuit enim, non occides: Sed à Magistratu divinitus ordinato. Nec refert quibus modis vel artibus Nimrod, Jeroboam, out alii regna sibi paraverint. Nam aliud est potestas quæ à Deo est; aliud acquisitio et usus potestatis. Paræ. in* Rom. 13.

Potestatis Nimrodi initium fuit quidem malum, &c. Quum igitur quæritur cui parendum, non est spectandum qualis sit qui potestatem exercet, nec quo jure vel in injuriâ, quis potestatem invasorit, quave ratione eam administret, sed tantum si potestatem habeat. Si enim quis potestate ollet, jam indubitatum est illum a deo eam potestatem accepisse, unde sine omni exceptio ne illite permittas opertet & pareas ex animo. Bucer in Rom. 13.

And the same Author againe; *When a question is made to whom obedience should be given: A Christian is taught out of the Apostle, that he should looke onely to this, who hath the power in that place where he lives.* Another thus, *It often comes to passe, that Alians or Natives by seditions or force invade the Common-Wealth. But in any of these cases Subjects may not when they list goe about to change the forme of the Common-*

Ex Apostolo estensum christiano cum quæritur cui parendum, in hoc unum respiciendum esse, quisnam ibi, ubi ipse agit, potestatem habeat. Id. Ibid. *Fit frequenter ut, vel alieni vel*

 Wealth,

indigene, per seditiones aut vi aperta Reip. invadant. At quicquid horum sit, non est sub dittorum vel Reip. formam mutare velle pro suo arbitrio, vel de sui principis jure seditiosius disputare, sed simpliciter Præsentibus Magistratibus obedire debent in omnibus quæ illæsa conscientiâ, & salvâ pietate fieri possunt, Gaulter in Rom. 13.

Wealth, nor dispute seditiously of the Right or authority of their Ruler, but should singly obey the PRESENT *Magistrates in all things which may be done without wrong to Conscience and Piety.*

And another thus, *The Apostle seemes here to goe about to take away the frivolous Curiosity of men, who often use to enquire by what right those which have command did get their authority; But it ought to be sufficient to us, that they are in preheminence. For they did not get up to his height by their owne strength, but they are set over by the hand of God.* Yet another, (*And all these chiefe pillars of the reformed Churches*) *It shall not here be scrupulously disputed by what right or by what wrong Princes have gotten their power. This rather is to be done that we reverence the* PRESENT *Magistrates. For this Epistle was written when the* Romanes *had now gotten the Empire of the world, which we know they did possesse by force; and that afterwards the Emperours by policies nothing better drew to themselves an universall power. Yet* Paul *doth command that Magistrates without all exception must be obeyed.*

Videtur Apostolus voluisse tollere frivolam hominum curiositatem, qui sæpe solent inquirere, quo jure adepti fuerint potestatem, qui rerum potiuntur. Satis autem nobis esse debet quod præsunt. Non enim conscenderunt sua ipsi virtute ad hoc fastigium sed manu domini sunt impositi. Calvin in Ro. 13.

Nihil hic auxie disputandum est quo jure, quive injuriâ principes adepti sint potestatem suam. Illud potius agendum est, ut Magistratus Præsentes revereamur, Hæc enim Epistola scribebatur, cum Romani jam adeptissent imperium orbis terrarum, quod eos per vim scimus occupasse, & postea Imperatores artibus nihilo melioribus rerum summam ad se pertraxisse. Paulus tamen sine omni exceptione præcipit obediendum esse magistratibus. Pet. Martyr in Rom. 13.

And indeed how can it be otherwise? for when a person

perſon or perſons have gotten Supreme power, and by the ſame excluded all other from authority, either that authority which is thus taken by power muſt be obeyed, or elſe all authority and government muſt fall to the ground; & ſo confuſion (which is worſe then tituler Tyranny) be admitted into a Common-wealth; And (according to the doctrine of King *James*) the King being for the Common-wealth, and not the Common-wealth for the King, the end ſhould be deſtroyed for the meanes, the whole for a part. If a Maſters mate had throwne the Maſter over Board, and by power would ſuffer no other to guide the Ship but himſelfe; if the Marriners will not obey him commanding aright for the ſafe guiding of the Ship, the Ship muſt needs periſh and themſelves with it.

So that whereas ſome ſpeake of ill conſequences, if this Doctrine be received, they may here ſee worſe conſequences if it be not received; and wiſe men ſhould ſee the conſequences on all ſides, and judge upon the whole.

Ad pauca reſpiciemes è facili judicant.

And ſurely whatſoever ill conſequences may appeare upon obeying, they appeare at more diſtance, but confuſion and deſtruction come in preſenty upon diſobeying. The Common-Vealth is preſently put into Ungovernment and Confuſion by inobedidience; or into ſedition, civill warre, yea deſtruction, by ſtriving againſt a prevalent power. Therefore as that which hath the leſſe ill conſequences, not ours only, but generally all Nations have given obedience to power; and both ſought and received Lawes and

Atteſtatur hoc eſſe licitum communis usus Omnium qui ſub Tyrannis & dubijs dominus degunt dum abſq;

conſcientiæ ſcrupulo paſſim omnes ad Tyrannos & dubios dominos recurrunt, acſi eſſent Domini. Cajet. Sum. Verbo Tyrannus.

Government from thoſe, that have overpowred them. But indeed the queſtion is properly here what is lawfull, and not what ill conſequences the corruption of man may worke upon that which is lawfull. And as to the lawfulneſſe, we have ſeen before what Scripture, Divines, Reaſon, and general practice have reſolved, and taught.

And whereas ſome ſpeake of a time for ſettlement, they indeed doe rather ſpeake for a time of unſettlement; for they will have an unſettlement firſt, and a ſetlement after. And whereas like doth produce its like; yet they would have an unſetlement to beget a ſetlement. They would have confuſion, diſtraction, deſtruction to bring forth order and ſafety. But the former Scriptures ſpeake not of the future, but of the preſent time; not of obeying thoſe that ſhall be powers, and ſhall be in authority; but the powers that are, and thoſe that are in authority. Neither doe the Caſuiſts and Divines ſpeake of obedience to thoſe that ſhall be ſetled but thoſe that are in actuall poſſeſſion of authority. Neither did our Anceſtors in the former examples defer obedience to the Kings that came in by power without Title; but gave it preſently, being preſently veſted and poſſeſſed of authority. Beſides, let it be conſidered whether that may not be called a ſettlement, how ſoone ſoever it is, when there is ſuch a way ſetled that men may have Juſtice if they will, and may enjoy that maine end of Magiſtracie,

giſtracie to live a peaceable life in godlineſſe and honeſty.

And indeed when one is in poſſeſſion by power, and another pretends a Title, what can the maine body of a Nation which conſiſts of the Common-people doe in this caſe? They cannot judge of Titles; but they ſee who doth viſibly and actually exerciſe power and authority. Yea even learned men, and States men have beene found ignorant of the former obſervations, of the not ſucceeding three in order of blood ſince the Conqueſt; and then how ſhould the Common people know it? Yet further, even Peeres, chiefe Cities, Parliaments, and all having to one in every three, thus ſubjected themſelves upon termes of power and not of right; what can be expected but that what hath been done, may or ſhall be done hereafter? eſpecially when in this preſent age obedience is given to the Lawes and Commands of thoſe Princes. But ſome ſay

What right had *William* ſurnamed the Conqueror? what right (we ſpeake of a Right of equity) had his Son *William* the ſecond, and *Henry* the firſt, while their elder brother liued, &c. Parliaments as Kingdomes, give their voice with power; & he who hath the force doth

commonly carryed the effect of Right Speed in *H.4.* The King (*H 7.*) made ſpeed to *London* as to the chiefe ſeate and Epitome of the Engliſh Monarchy, &c. The Mayor of *London* and his Fellowſhip received him in Violet at *Horneſey* Parke; but his entrance (which was at *Shordich*) was honoured with a very great troope of the Peeres and Nobles in his Trayne, &c. The whole Houſe of Parliament concurring finally in eſtabliſhing by a ſolemne Act, the Crowne upon him and his Heires for ever. *Id.* in *H.7.*

that there are Oathes that juſtifie diſobedience to the preſent Government. Surely Oathes are ſacred bonds and reverent obligements, and where they doe not themſelves leave or make us free, we are not to cut or breake them in pieces; Yet concerning theſe there are faults on both hands: On the

one ſide the ſlighting of an Oath, (and ſuch is the comparing it with an Almanack) which is a light aſwell as an unproper compariſon; except it were ſuch an Oath as was made onely for a yeare; But we finde ſome part of the Vow and Covenant to ſpeake of all the dayes of our lives, which doubtleſſe may lye on many of the takers for many years; True it is that the obligation of ſome things may end, becauſe they can no longer be kept, as that of the Kings perſon; for to impoſſible things there is no obligation: but will any man that underſtands, and favours Religion and Piety, ſay that the clauſes which concerne Religion and Piety are expired? Did we promiſe to God in our ſeverall places and callings, to extripate Profaneneſſe, Hereſie, and Blaſphemy, and to endeavour a reformed life in our ſelves and ours; onely till our Enemies were overcome, and then to make an end? What were this but to ſay unto God, If thou wilt deliver us, we will be bound to thee till we are delivered and no longer? Would this invite God to deliver us from our enemies, or rather to keepe our Enemies ſtill in ſtrength againſt us? leaſt we being delivered from our Enemies ſhould not ſerve him in righteouſneſſe and holineſſe all our lives. Surely this is too like that courſe of carnall *Iſrael*, of whom it is written, *When he ſlew them, then they ſought him, and they enquired early after God; but their heart was not right with him, neither were they ſtedfaſt in his Covenant.* Much more piouſly and faithfully a reverend and truly ſpirituall Divine; *A well grounded*

Regula juris. Impoſſibilium nulla eſt obligatio

Pſal. 78. 34.

ded Covenant is a ſure, a firme and an irrevocable Act. When you have ſuch an All This (*and ſuch you have*) *as is here concentred in the Text, to lay into, or for the foundation of the Covenant; the ſuperſtruction (is æternitati ſacrum and) muſt ſtand for ever.*

Mr. *Carill* in his Sermon upon *Nehe.* 9. 38 concerning the Covenant. *Octob.* 6. 1643

But on the other ſide there are other faults; ſuch are the urging of an Oath or Covenant againſt enemies, and not againſt friends in one and the ſame Action; and if not altogether ſo, yet a ſlight and diminiſhing charge of it upon one, and a vehement and aggravating charge of it upon the other. Another fault may be, a ſtiffe inſiſting on one part, and a neglect, or at leaſt ſilence in another part; as likewiſe when by event two parts of it come to be inconſiſtent, to chuſe and inforce the keeping of the lighter or leſſe neceſſary part, and to give way to the loſſe and not keeping of the greater. There is another, in racking an Oath or Covenant, to make it ſpeake that which it meant not. And here it were good to conſider, whether there be any clauſe in any Oath or Covenant, which in a faire and common ſence forbids obedience to the commands of the preſent Government and Authority, much leſſe when no other can be had, and ſo the Commonwealth muſt goe to ruine. And whether it forbids obedience to the preſent Authority more then to Lawes that have beene formerly enacted, by

Quando res illa quam quis juramento confirmavit, eſt nimis ardua; aut quando quis qui juravit, ex mutatione virium vel fortunæ effectus eſt parum aptus ad id exequendum; aut deniq; quando res juramento confirmata eſt juranti impedimento, ne bono publico conſulat, tunc eſt legitima cauſa diſpenſandi in juramento. Sayr. lib. 5. c. 8. n. 12.

thoſe

thoſe which came in Authority meerely by power? If it be ſaid that in the Oath of Allegiance, Allegiance is ſworne to the King, his Heires, and Succeſſors, if His Heires be not his Succeſſors, how doth that Oath binde? either the word Succeſſors muſt be ſuperfluous, or elſe it muſt binde to Succeſſors as well as to Heires; and if it binds not to a Succeſſor, that is not an Heire, how can it binde to an Heire that is not a Succeſſor? And if you will know the common and uſuall ſenſe (which ſhould be the meaning of an Oath) of the word Succeſſors, you need not ſo much aske of Lawyers and learned perſons, as of men of ordinary knowledge, and demand of them, Who was the Succeſſor of *William* the Conqueror, and ſee whether they will not ſay *William Rufus*, and who ſucceeded *Richard* the third, and whether they will not ſay *Henry* the ſeventh? and yet (as it appeares before) neither of them was Heire. So it ſeemes in the ordinary acception the word Succeſſor is taken for him that actually ſucceeds in Government, and not for him that is actually excluded. And as in Language the ordinary acception of a word is to be taken for the meaning, ſo that meaning is to be underſtood as moſt proper to have been taken in an Oath.

Si id quod juramus primò fuerit illicitum, poſteà cauſis aliis intervenientibus illicitum fiat, aut etiam impoſſibile, tum nullo modo conſcientiam obligat. Alſted. cap. 15. n. 13.

Jusjurandum in foro conſcientiæ ſemper eſt interpretandum juxta mentem jurantis; at in foro exteriori ſeu judiciali ſemper eſt judicandum ſecundum communem ſenſum, quem ipſa verba reddunt, & ſecundum communem hominum uſum. Alſted. cap. 15 n. 13.

And one who hath lately writ ten for infant Baptiſme, according to our Saviours rule of ſalt, and peace, with ſharp reaſons and milde language, hath theſe words. If one of our late Kings Sons ſhould be crowned King of *Scotland* or *Ireland* onely, he could not be ſaid to ſucceed the King of *England*; becauſe the ſubject of his Government in regard of latitude, is changed, and he comes not in his Fathers roome as King of *England*. Mr. *Drew*. page. 32.

Yet

Yet withall this Quære may be added; While the Son is in the ſame poſture in which the Father was, how comes this Oath at this time to ſtand up and plead for diſobedience in regard of the Son, that was aſleep and ſilent in regard of the Father?

But now let us enter into the queſtion of active obedience, and Acting under this preſent power and Government. But firſt let this be premiſed, That this preſent power is in poſſeſſion of the whole Land, and no viſible force to oppoſe or overbeare it, and ſo it is not like that betweene *David* and *Abſalom*, where *David* had an Army in veiw that might, and did overcome. And next, That a courſe of Juſtice, or giving right is opened at *Weſtminſter*, and through the whole Nation; And this being the preſent ſtate of the Nation, let us examine whether it be lawfull to Act in ſuch a ſtate? True it is that ſome hold it wiſedome, and ſome hold it duty, to be quiet, and not to Act. But, firſt, it hath bin proved before that obedience to ſuch a power in good things is lawfull. Now if obedience in good things be lawfull, then Acting for Juſtice and Order being good things, and commanded, it is lawfull to obey that command.

See Maſter *Aſchams* Diſcourſe (that hath in it both judgement and learning) concerning poſſeſſion, *part.* 1. *chap.* 6. *& ſequ. & part* 2. *ch.* 4. *pa.* 88.

Secondly, if all ſhould not Act, I think the not Actors would fall ſhort of their ſuppoſed and intended quietneſſe, and the wiſedome they placed in it: For by non-Acting in the way of juſtice the whole (and themſelves among the reſt) would lye open to Injuſtice ſpoyle and deſtruction, and ſo be far from quietneſſe. And indeed what reaſon is it, that thoſe that will not Act, becauſe they hold it unlawfull, ſhould expect that others ſhould doe an unlawfull Act to benefit them? And why ſhould others give right to them that will not give right to others?

Thirdly, It is cleared in this diſcourſe, that thoſe who have gotten to be powers (though by force) yet ought to give juſtice to thoſe whoſe Goverment they have undertaken. And againe, That the people may lawfully demand it. But is it poſſible that one or a few perſons in ſupreme power can diſtribute juſtice to a whole Nation without ſubordinate Agents? So that to ſay, None may lawfully Act under the ſupreme power in diſtributing of Juſtice, and Government, were to ſay upon the matter, That he ſhould give no juſtice, and that the people ſhould have no juſtice at all. And then how abſurd is it to teach that the people may lawfully ſeeke juſtice of him, which they cannot receive? and that he is bound to give juſtice, but none are allowed by whom he may give it?

Fourthly, This Doctrine of not Acting is the very Doctrine of Levelling. For when no man may Act to give juſtice, may not every man take freely from his Neighbour, what he liſt, and ſo levell the Rich with the Poor? unleſſe this make it unlike, becauſe worſe then Levelling, That thoſe who have moſt force, will have moſt; yea ſome all, and others nothing; and ſo to avoid Acting under a ſuppoſed Tyrannical Government unto juſtice and order; there ſhall be Tyrants in every place or pariſh, who ſhall Act to diſorder and oppreſſion, and no property, juſtice, nor Government at all left amongſt us. And ſurely I thinke *David* out of his love to Iſrael would not have wiſhed ſuch an Eſtate, to Iſrael under *Abſalom*, had he the whole in poſſeſſion, and himſelfe no force on foote to recover it; nor would he have deſired ſuch an unſettlement to procure his ſettlement. And hence ariſeth that which they call an Interpretative conſent of the people; becauſe it is underſtood and ſuppoſed that every rational man doth conſent, that there ſhould be

be order, property and right given to every Member of a Common-Wealth under a Tyrant, rather then all to be under confuſion oppreſſion, Robberies, & Murders.

Fifthly, how could *Ezra* and *Nehemiah* juſtifie their Acting under the Perſian Monarch, who had no right to the Crown of *Judah* either by blood or juſt conqueſt? Yet *Ezra* was authorized by him to ſet Magiſtrates, fine and impriſon and put to death; And he exerciſeth authority, in making the people of Iſrael to ſweare, and to enter into a Covenant, & in ſending forth a Proclamation to all the Children of the captivity, that they ſhould gather themſelves together to Jeruſalem; And that whoſoever would not come within three dayes, all his ſubſtance ſhould be forfeited. *Nehemiah* alſo Acts as Governour, and rebuketh the Nobles, and Rulers, and ſets a great aſſembly againſt them, becauſe of their uſury. He alſo called the Prieſts and took an Oath to performe the promiſe of leaving that Vſury. He acknowledgeth alſo that he was Governour there about twelve yeares, and he gave his Brother *Hanani* and *Hanaiah* Ruler of the Palace charge over Jeruſalem. So he did both Act himſelfe, and others Acted under him. We finde alſo that at that time there were Rulers of the people that dwelt at Jeruſalem, and *Nehemiah* contended with the Rulers and Nobles, made Treaſurers, commanded the Gates to be ſhut before the Sabbath, threatned to lay hands on the Merchants, that lay at the Gates, ſmote certaine of the Jewes, and pluckt of their haire, becauſe having married wives of *Aſhdod*, their Children ſpake halfe in the language of *Aſhdod*.

Ezra 7.25. Ezra 10.7,8. Neh. 5.7. &c. Neh. 7.2. Neh. 13.

Sixthly, Let us heare what before theſe times and before our caſe was in being hath bin taught in point of Acting; and upon what grounds it hath bin aproved. An author eminently learned and skilfull in the doctrine of

lawgiving ſaith thus: *No man may puniſh or condemn another even with a juſt puniſhment, except he have publique power, which a Tyrant cannot give. But in this there muſt be a conſideration or ſubdiſtinction. For in rigor this is true as to the Tyrants part; yet it ſo happens that the Common-wealth becauſe it cannot reſiſt him, doth tolerate him, and ſuffers it ſelfe to be Governed by him; and doth tacitely conſent, and will that juſtice be adminiſtred by him, for the reaſon already touched, becauſe it is a leſſe evill to be Governed by him, then altogether to want juſt coaction and direction; and then it ſhall not be a ſin to obey even in the things aforeſaid, becauſe the conſent of the Common-wealth doth ſupply the defect of the Tyrants power.*

Nullus poteſt exequi vel condemnare alium etiam in pœna juſta, niſi habeat publicam poteſtatem quam Tyrannus dare non poteſt. Sed in hoc etiam advertendum ſeu ſubdiſtinguendum eſt. Nam hoc in rigore verum eſt, quantum ex parte Tyranni; contingit autem ut Reſp. quia non poteſt illi reſiſtere, toleret illum & ab eo ſe gubernari ſinat, & tacitè conſentiat, ac velit juſtitiam per ipſum adminiſtrari propter rationem tactam, quia minus malum eſt per illum gubernari, quàm omnino carere juſta coactione, & directio e, & tunc non erit peccatum obedire etiam in dictis rebus, quia Reip. conſenſus ſupplet defectum poteſtatis Tyranni. Suarez. de Leg. lib. 3. cap. 10.

Another thus, *That his ſentences are valid, is proved. Becauſe his ſentences, and juſt commands although they have not force from a Tyrannicall power, yet they have it from elſewhere. Firſt, and inchoatively from the law of nature, which ſuch a State of things being ſuppoſed, doth dictate that obedience muſt be given for the Common good, otherwiſe all will be full of Thefts and Roberies. Secondly, and compleately from the Common-wealth; and that either becauſe while that State endures, it gives authority to him by a tacite conſent, while it will's that he adminiſter juſtice, and uſe his uſurped Office in a due maner, or rather becauſe it doth tacitely approve his commands, and Acts being agreeable to the Lawes and Common good, and will's that his juſt ſentences, whereby the ſuites of the people are decided, and the guilty are puniſhed, ſhall be valid and binde the ſubjects; for except they were valid and did binde, no man would obey, but onely in ſhew*

Sententias ejus eſſe validas probatur. Quia ejus ſententiæ & juſta mandata et ſi non habent vim à Tyrannica poteſtate, habent tamen aliunde primò & inchoative à jure Naturali, quod ſuppoſito tali rerum ſtatu, dictat eſſe obtemperandum propter bonum commune; alioqui omnia eſſent plena furtis et latrociniis. Secundo & completè à republ-

but

but every man would ſecretly doe the contrary with a great inconvenience to the Common-wealth. Now the Common-wealth may give this force to the ſentences, and Acts of a Tyrant, becauſe it is ſuperiour to all ſingle perſons, though it be oppreſt with Tyranny, and may account the juſt ſentence of a Tyrant as its owne.

lica, idque vel quia durante illo ſtatu, tacito quodam conſenſu dat ei authoritatem, dum vult ut ille juſtitiam adminiſtret, & officio uſurpato debito modo fungatur, vel potius quia tacite approbat ejus mandata, & acta, legibus & utilitati communi conſentanea, & vult ſententias juſtas quibus lites civium dirimuntur, & ſontes plectuntur, eſſe validas, & ſubditos obligare niſi enim validæ eſſent & obligarent, nemo niſi in ſpeciem obtemperaret ſed quiſq; occulte faceret contrarium, cum magno Reipublicæ incommodo poteſt autem Republica hanc vim ſententiis & actis Tyranni dare, quia eſt ſingulorum ſuperior, etiamſi Tyrannide ſit oppreſſa, & juſtas Tyranni ſententias pro ſuis habere.

Thou wilt aske, whether a Tyrant doe ſinne the ſin of murder, and be bound to reſtitution, if he put to death guilty perſons, or deprive them of their goods according to Law? I anſwer negatively; Becauſe the Common-wealth doth tacitely give him authority hereunto, while it doth conſent, and deſire, that this ſhould be done by him.

Petes, utrum Tyrannus peccet peccato homicidii, & teneatur ad reſtitutionem, ſi ſontes ſecundum ordinem juris interficiat aut bonis ſpoliet? Reſpondeo, negamus; Quia Reſpublica tacitè ad hoc tribuit illi authoritatem dum conſentit & cupit ut hoc faciat. Leſſius de Juſtitia & Jure, lib. 2. cap. 25. Dubitat. 9.

Thus is the authority of Acting in this caſe grounded upon a tacite or implyed conſent, which conſent is the very dictate of nature or common reaſon, becauſe it is better to have ſome juſtice then none at all, ſome coercive power and Government, then that all be left to diſorder, violence, and confuſion. I will ſhut up all with the reſult of a diſputation more full and comprehenſive, then moſt I have met with on this ſubject. And therein I preſent to conſideration, Firſt, The moment and weight of the

Authors reasons. Secondly, The probability and likely-hood of the clearenesse of his reasons; because they seeme to proceed from a judgement cleare and free from the Byas of affection. Yea his judgement herein did swim against the streame of his affection; for he perswades an obedience to the Government of a Governor that he loved not. And I wish this Ingenuity and clearenesse, were at least no lesse amongst us.

He wrote in the raigne of Queene *Elizabeth* to whom in the language of *Rome* he gives the terme of impious, &c. and takes notice of her as a Tyrant, and by sentence of the Church turned out of all right to princely authority, yet after some prævious Assertions concerning this subject, he comes to

Quarta assertio.

A fourth Assertion.

Tyranno in facto esse, sive quia tyrannicè regnum usurpavit, sive quia Tyranniceillud retinet, quo jam per sententiam Ecclesiæ expoliatus est, regnat autem quia à subditis non potest repelli, tenentur

TO a Tyrant in facto esse (*or possession*) *by Tyrannicall usurping a Kingdome, or tyrannicall holding it, being by the sentence of the Church deposed from it, but yet governing because he cannot be repelled by the subjects, The people are bound in Conscience to give obedience, if he command and decree things that are just.*

cives in foro animæ si justa præcipiat & judicet, obedire.

Ut Christiani degentes Asiæ tenentur justis Turcæ, & Catholici agentes Angliæ, legibus

Having laid down this Assertion, he proceeds thus; *As Christians dwelling in* Asia, *are bound to obey the just lawes of the Turke, and the Catholikes in* England, *the just lawes of that Impious Queene; This is thus proved*

ved; The people are bound in conscience to agree unto, and observe those things which are altogether necessary, to their Common-wealth, either simply and absolutely, or at least for that State wherein they are. But to obey a Tyrant, commanding just things as long as he cannot be repelled, and a lawfull Prince obtained, is for that State and Time altogether necessary to the Common-wealth, for the preservation of it. Therefore the people are bound to obey him. The Major with the consequences is manifest. The minor is proved: First, because that a Tyrant being powerfull in strength, and now peaceably ruling, there would follow an extreame perturbation, and confusion in the Common-wealth by not obeying him; and the people should more hurt their Common-wealth by not obeying then the Tyrant himself, when he commands just things, by his Tyranny.

justis illius imperia Reginæ obedire: Probatur. Tenentur Cives in conscientia consentire & servare ea quæ sunt omnino necessaria suæ Reip. vel simpliciter & absolute, vel saltem pro tali statu: sed obedire Tyranno justa præcipienti quandiu repelli non potest, & haberi legitimus princeps, est pro tali statu & tempore omnino necessarium Reip. ad ejus conservationem. Ergò tenentur cives illi obedire. Major cum consequentia aperta est. Minor probatur. Primò quia cum Tyrannus ille sit potens viribus, & jam pacificè dominetur, sequeretur maxima perturbatio, & confusio in Republicâ non obediendo illi, & plus nocerent cives suæ Reip. non obediendo quam ipsemet Tyrannus cum justa præcipiat, sua Tyrannide.

Secondly, Because to the good Government of a Common-wealth, especially when things are so desperate and deplorable, it is requisite, as an onely remedy, that there be a judge which should compose strifes and controversies among the people, and to whom all then should give obedience; otherwise men in such a time could not live civilly, nor be secure in their Houses; a lodger could not be safe from him, with whom he lodgeth, nor a Neighbour from his Neighbour: But at such a time no other judge may be had that may performe this but the

Secundò, quia ad bonam Reip. gubernationem maxime in rebus tam desperatis & deploratis, expedit tanquam unicum remedium ut sit aliquis Judex qui componat lites & controversias inter cives, & cui tunc

omnes obediant aliter non poſſent homines tunc civiliter vivere, nec ſecuri eſſe in domibus ſuis, non eſſet hoſpes ab hoſpite tutus, nec vicinus à vicino; At tunc non poteſt haberi alius judex qui id præſtet niſi ille Tyrannus. Ergo cum juſta præcipiat, non ſolum exterius, verum etiam in conſcientia tenentur, cives obedire illi.

the Tyrant. Therefore when he commands juſt things, the people are bound not onely outwardly, but even in conſcience to obey him.

Tertio quando Tyrannus jam pacifice gubernat nec poteſt repelli eſſet grave ſcandalum, & perturbatio Rep. illi non obedire. Et confirm. Hoc intereſt ex communi ſententia D.D. inter conſenſum exp eſſumRiep. et interpretativum, quod expreſſus requiritur ut quis eligatur & inſtituatur verus princeps, at ut ſubditi teneantur obedire etiam non vero principi, ſufficit interpretativus, quandoita exigit bonum commune ſuæ Rep. quia rationaliter & prudenter judicantur cives conſentire in neceſſaria ſuæ Reip. Sed in hoc caſu (ut conſtat) maxime expedit ad pacem & bonum Reip. cives tali Tyranno obedire: Ergo per conſenſum ſaltem interpretativum tenentur in conſcientia juſtis & honeſtis præcepeis illius ſtare & parere

Thirdly, When a Tyrant doth now peacebly govern and cannot be repelled, it would be a great ſcandall and perturbation to the Common-wealth not to obey him. And it is thus proved; In the common opinion of Doctors there is this difference betweene an expreſſe conſent of the Common-wealth and an interpretative, that an expreſſe conſent is required to chooſe a perſon, and make him a true Prince; But that Subjects be bound to obey, even one that is not a true Prince, an interpretative conſent is ſufficient, becauſe the publique good of their Common-wealth doth require it. For rationally and prudently people are judged to conſent to thoſe things that are neceſſary for their Common-wealth; But in this caſe (as it is plaine) it is moſt expedient for the peace and good of the Common-wealth that people ſhould obey ſuch a Tyrant. Therefore at leſt by an interpretative conſent they are bound in conſcience to performe and obey his juſt and honeſt commands.

Confirmantur hæc omnia pri-

All theſe things are confirmed; Firſt, out of the ſacred Scriptures, out of which and Hiſtories it is manifeſt

nifeſt that the Romans by Tyranny did poſſeſſe Iudea in that very time wherein Chriſt and John Baptiſt did preach; But neither Chriſt nor John nor the Apoſtles did teach that the people ſhould not obey them, but the contrary. Chriſt, Matthew 22. did teach that Tribute was to be given to Cæſar, yea himſelfe did give it. Neither did he ſay, that he was free, becauſe obedience ſhould not be given to one that Tyrannically Reigned, but becauſe he was the Son of God, and of David. John Baptiſt, Luk. 3, when the Souldiers (which no doubt were the Souldiers of the Romanes) did aske of him what they ſhould doe, he did not command them to quit their Souldiery as ſervants of a Prince that was a Tyrant, but this onely that they ſhould doe violence to no man and be content with their wages. Wherein he did rather perſwade them to continue in the ſervice of Cæſar. Moreover, Chriſt ſaid unto Pilate who had no authority but from Cæſar, thou ſhouldſt have no power of me, &c. and 1 Pet. 2. Be ye ſubject either to the King as ſupreame, or unto Governors as thoſe that are ſent by him. Now there was no King then but Cæſar, nor any Governor but ſuch as was appointed by him.

mo ex ſacra ſcriptura, ex qua & hiſtoriis conſtat Romanos per Tyrannidem occupaſſe Iudæam eo tempore quo Chriſtus, & Johannes Baptiſta prædicabant; at neque Chriſtus, neque Iohannes neque, Apoſtoli docuerunt, ne illis obedirent, imò ipſe & reddidit, nec aſſeruit ſe liberũ, quia non eſſet obediendum Tyranniceimperanti; ſed quia erat Filius dei & Davidis. Joan Bap. Luc. 3. militibus quærentibus ab ipſo (quos dubium non eſt quin eſſent milites Romanorum) quid facerent non præcepit ut militiam deſeverent quaſi miniſtri principis Tyranni, ſed hoc tantum [ut neminem concuterent, & contenti eſſent ſtipendijs ſuis] ubi potius ſuaſit ſtare in militia Cæſaris. Pilato etiam qui nullam authoritatem habebat niſi a Cæſare, dixit Chriſtus [non haberes in me poteſtatem, &c.] Er. 1. Per. 2. [ſubjecti eſtote ſive Regi tamquã præexcellenti, ſive ducibus tanquam ab eo miſſiſo] Nullus autem Rex tunc erat niſi Cæſar, neq; ullus Dux niſi conſtitutus ab eo.

Laſtly, to an Argument objecting that the judgement of a Tyrant is of his part uſurped and void becauſe his authority is uſurped he ſaith: That nevertheles

Ad argumentum in appoſitum dico judicium Tyranniex par-

te judicantis esse reverà usurpatum, & sententiame jus nullam, quia proxima causa talis judicij & sententiæ, nempe authoritas ejus est & nulla, ex parte verò civium esse illi obediendum in conscientia tanquam justæ sententiæ, & legitimo judicio, quia tenentur cives eligere minus malum temporale, ad vitandum majus, & per minus malum, quod est obedire illi, vitant perturbationem suæ Rep. quæ esset multo majus malum. Tum enim quia judicia hujus possunt quadam ratione dici judicia veri judicis, quatenus toleruntur a Rep. per consensum interpretativum, qui sufficit ut teneantur cives obedire illi in conscientiâ. Ex quo etiam sequitur, non modo cives debere illi in conscientiâ obedire, verum etiam tyrannum ferentem tales sententias non peccare, quinimo peccaret nisi illas ferret, quandu muus principis retineret, quamvis teneatur in conscientiâ principatum relinquere, aut enim medijs honestis ut a Rep. in suum principem eligatur. Michael Salon de justitia. & jure. Quæst. 60 Art. 6.

on the peoples part they ought in conscience to obey him, if his sentence were Just and his Judgement lawfull, because the people are bound to chuse a lesse temporall evill to avoid a greater. By the lesse evill which is obeying him, they avoid the perturbation of the Common-wealth, which would be a much greater evill. And againe, because his judgements may in some reason be called the judgements of a true judge inasmuch as he is tollerated of the Common-wealth by an interpretative consent, which is sufficient that the people are bound to obey him in conscience, whence also it doth follow that not onely the people ought to obey him in conscience, but that the Tyrant himselfe which giveth such judgements doth not sin, yea rather he should sin if he did not give them, as long as he retaineth the Office of a Prince, though he be bound in conscience to leave his principality, or endeavor by honest meanes, that by the Common-wealth he may be chosen for their Prince.

A taking leave of this subject.

I have (I confesse) in this subject gone out of the ordinary path of my employments in meditation and writing, but I did it occasionally out of zeale to peace; and that which I beleeve to be truth; being very sorry to see well meaning and

(I hope)

(I hope) pious perſons, by not obeying, ſwiftly and reſolutely to goe out of the way of Peace, and (as I ſuppoſe) of truth; At leaſt it ſeemed to me a ſad thing that thoſe who had not ſearched the grounds of that which they held to be truth, yet did certainely endanger the loſſe of peace for that which they had not ſearched, and by ſearching found certainely to be truth. Yet I wonder not much if truth in this point be not commonly knowne in this Nation, ſince amongſt the Proteſtants in this Nation for theſe laſt foureſcore years there hath been little debate of it. But having gathered the ſubſtance and ſumme of thoſe grounds which in my judgement make out this truth, That it is lawfull to obey the preſent Government; and having ſhewed that this truth hath beene anciently held and is not newly invented to ſerve preſent turnes, and that either it may be beleeved, or at leaſt not condemned, unheard and unknowne, I ſhall now deſire leave to retire and return to my more proper worke, whereof I have ſo much in my hands that I cannot well expect a life now come farre into the yeare accounted to be the terme of life ſhould have time to diſpatch. If the grounds propoſed be found (as we have ſeene them thought ſo by men of great judgement) I hope they will ſtand againſt all waves and winds, and they will finde Patrons who have both ſtrength of body and minde to maintaine them; if they be proved unſound, I would not mainetaine them if I could.

FINIS.